



U. S. Department of Justice

*United States Attorney
Western District of Wisconsin*

Suite 200, City Station
660 W. Washington Avenue
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608/264-5158
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November 18, 1999

Ms. Leslie Allen
U.S. Department of Justice
ENRD/Environmental Enforcement
Section
Box 7611
Washington, D.C. 20044-7611

Jeff Cahn, Esq.
EPA Region 5
77 W. Jackson Blvd.
Chicago, IL 60604-3590

Re: United States v. State of Wisconsin
Case No. 98-C-0517-C

Dear Leslie and Jeff:

I have enclosed a copy of the fully executed Stipulation and Order for Dismissal in this matter. I will let you know when I receive the check.

Very truly yours,

PEGGY A. LAUTENSCHLAGER
United States Attorney

By:


MULLEN J. DOWDAL
Assistant United States Attorney

MJD/nlb

Enclosure

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DOCKET NUMBER	36
U.S. DISTRICT COURT WEST DIST. OF WISCONSIN	
NOV 16 1999	
FILED JOSEPH W. SKUPNIEWITZ, CLERK	
CASE NUMBER	

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 98-C-0517-C

STATE OF WISCONSIN,

Defendant.

STIPULATION AND ORDER FOR DISMISSAL

I. BACKGROUND

WHEREAS, Plaintiff, the United States of America, on behalf of the Administrator of the United States Environmental Protection Agency ("EPA") has filed an Amended Complaint alleging that Defendant violated the National Emission Standard for Hazardous Air Pollutants for asbestos (the "asbestos NESHAP"), 40 C.F.R. part 61, Subpart M, and section 112, of the Clean Air Act ("Act"), 42 U.S.C. § 7412; and

WHEREAS, by their respective undersigned representatives, Plaintiff and Defendant, having agreed that settlement of this action has been negotiated by the parties in good faith and that this stipulation is fair, adequate, reasonable, consistent with applicable law and in the public interest, and,

WHEREAS, entry of this stipulation without further litigation is the most appropriate means of resolving this action; and,

By AUSA E. Fudal,
AAG Remington
17th Nov 99
W. Barlow
Deputy Clerk

WHEREAS, this stipulation and settlement does not constitute admission of liability by defendant, waiver of sovereign immunity or an adjudication by the court of any issue of fact or law alleged in the amended complaint, but is intended solely to settle all the claims asserted by the plaintiff against the defendant in the amended complaint on the terms set forth below;

NOW, THEREFORE, before taking any testimony, upon the pleadings, without adjudication of any issues of fact or law, and upon consent and agreement of the parties to this stipulation, it is hereby ORDERED as follows:

II. JURISDICTION AND VENUE

1. This court has jurisdiction over the subject matter of this action pursuant to section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1345, 1355, and over the parties consenting to this stipulation. Venue is proper in this court under section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. § 1391(b). The amended complaint states claims upon which relief may be granted.

III. PARTIES BOUND

2. This stipulation shall apply to and be binding upon the plaintiff and upon defendant.

IV. CIVIL PENALTY

3. Defendant shall pay a civil penalty of \$36,000 to the United States of America within thirty days of the effective date of this stipulation. This payment shall be made payable to "Treasurer, United States of America," bearing a notation as to the civil docket number of this action, and sent to:

PEGGY A. LAUTENSCHLAGER
United States Attorney
Western District of Wisconsin
Suite 200
660 West Washington Avenue
Post Office Box 1585
Madison, Wisconsin 53701-1585

Simultaneously with the making of any such payment, the defendant shall submit copies of the check and the payment transmittal letter, identifying this stipulation and this paragraph, to the below addresses:

Attn: Decree Tracker
Air Enforcement Branch (AE-17J)
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

United States Department of Justice
Environment and Natural Resources Division
Post Office Box 7611
Ben Franklin Station
Washington, D.C. 20044
Attn: DOJ #90-5-2-1-2106

Upon receipt of payment set forth above, the plaintiff shall file a notice with the court indicting that payment has been received and that the amended complaint may be dismissed with prejudice, with each party bearing its own costs and attorney's fees.

VI. PUBLIC ACCESS TO INFORMATION

4. All information and documents in this case pursuant to this stipulation shall be subject to public inspection without further notice in accordance with 40 C.F.R. part 2, subpart B.

VII. GENERAL PROVISION

5. This stipulation resolves only the civil claims of the United States for the violations alleged in the amended complaint.

6. This stipulation does not limit or affect the rights of defendant or the plaintiff as against any third parties.

7. Each party to this action shall bear its own costs and attorney's fees.

8. Any modification of this stipulation must be in writing and approved by the court. Any such written modification must be agreed to and signed by all parties to this stipulation.

VIII. RETENTION OF JURISDICTION

9. This court shall retain jurisdiction to modify or enforce the terms of this stipulation or to take any action necessary or appropriate for its construction or execution.

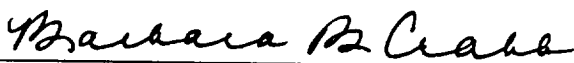
IX. TERMINATION AND PUBLIC COMMENT

10. The provisions of this stipulation shall be deemed satisfied upon payment of the amounts set forth in paragraph 3 above.

11. This stipulation shall be filed with the court for a period of not less than thirty days, for public notice and comment in accordance with the provisions of 28 C.F.R. §50.7. The plaintiff reserves the right to withdraw or withhold its consent if the comments received disclose facts or considerations, which indicate that the stipulation is inappropriate, improper or inadequate. If no changes to the stipulation are proposed in response to public comments, defendant consents to entry of the stipulation without further notice.

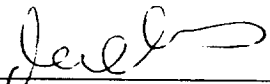
X. SIGNATORIES

SO ORDERED THIS 16th DAY OF November, 1999.


THE HONORABLE BARBARA B. CRABB
United States District Judge

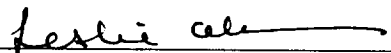
Through their undersigned representatives, the parties agree and consent to this stipulation in United States of America v. State of Wisconsin, Civil Action No. 98-C-0517-C.

FOR PLAINTIFF
UNITED STATES OF AMERICA:



JOEL M. GROSS
Chief, Environmental Enforcement Section
Environment and Natural Resources
Division
United States Department of Justice

Date: 9/16/97



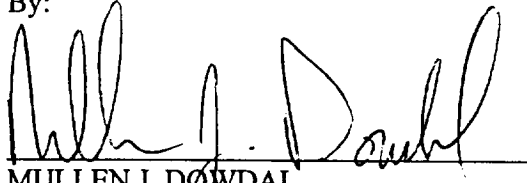
LESLIE ALLEN
Trial Attorney
United States Department of Justice
Environmental Enforcement Section
Post Office Box 7611
Ben Franklin Station
Washington, D.C. 20044

Date: 9/16/97

Through their undersigned representatives, the parties agree and consent to entry of this stipulation in United States of America v. State of Wisconsin, Civil Action No. 98-C-0517-C.

PEGGY A. LAUTENSCHLAGER
United States Attorney
Western District of Wisconsin

By:

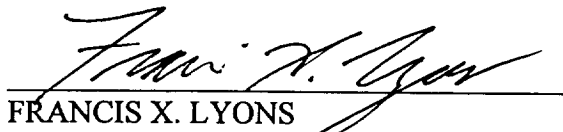


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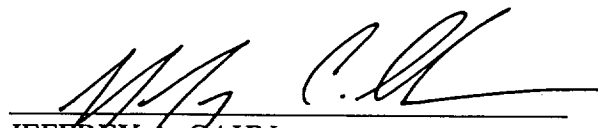
Date: 9/29/99

Through their undersigned representatives, the parties agree and consent to entry of this stipulation in United States of America v. State of Wisconsin, Civil Action No. 98-C-0517-C.

By:


FRANCIS X. LYONS
Regional Administrator
Region V
United States Environmental
Protection Agency

Date: 9/23/99


JEFFREY A. CAHN
Associate Regional Counsel
Region V
United States Environmental
Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604

Date: 9/16/99

Through their undersigned representatives, the parties agree and consent to entry of this stipulation in United States of America v. State of Wisconsin, Civil. Action No. 98-C-0517-C.

FOR DEFENDANT
STATE OF WISCONSIN

BY:

Frank Hennigton

Date: September 14, 1999